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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92057344
Party	Defendant Racemi, Inc.
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Date	02/02/2015
Attachments	Registrant_s Motion to Strike 92057344_1.PDF(96108 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Cloudpath Networks, Inc.,	§	
	§	Cancellation No. 92057344
Petitioner,	§	(Registration No. 4,174,640)
	§	
vs.	§	
	§	
Racemi, Inc.,	§	
	§	
Registrant.	§	
	§	

**REGISTRANT’S MOTION TO STRIKE
PETITIONER’S NOTICE OF RELIANCE**

Registrant, Racemi, Inc. (“Racemi”), hereby moves to strike, in part, the *Notice of Reliance* filed and served by Petitioner, Cloudpath Networks, Inc. (“Cloudpath Networks”) on December 22, 2014, during Petitioner’s testimony period. That testimony period has been concluded.¹

For the various reasons set forth below, several of the categories of materials submitted with Cloudpath Networks’ *Notice of Reliance* do not qualify, or have not been shown to qualify, for admission as evidence in this proceeding. Set forth hereinafter are a list of the submitted materials and statements of the grounds for Registrant Racemi’s objections to certain categories of materials.

1. Transcripts of Petitioner’s discovery period depositions of James Strayer and Charles Watt as the Rule 30(b)(6) designees of Registrant – **No objection**

¹ By stipulation of the parties filed December 9, 2014, the closing of Petitioner’s testimony period was extended from December 25, 2014, for the limited purpose of allowing Petitioner to take the testimony period deposition of Kevin Koster on or before January 31, 2015. That deposition was taken January 22, 2014, such that Petitioner’s extended testimony period is now closed.

2. Exhibits from Petitioner's discovery period depositions of James Strayer and Charles Watt as the Rule 30(b)(6) designees of Registrant:

(a) Strayer Deposition Exhibit Nos. 1, 5-8, 8-1, 9, 9-1, 10, 15, 19, 28 and 30 –

No objection

(b) Strayer Deposition Exhibit No. 17:

- Lack of authentication – not authenticated by any witness testimony or otherwise (substantive defect which cannot be cured)
- Failure to comply with procedural requirements for admission under 37 C.F.R. § 2.122(e) as printed publications

3. All documents produced by Petitioner Cloudpath Networks during discovery (bearing "CLD"-prefix control numbers)

- Improper submission of party's own document production – substantive defect which cannot be cured
- Lack of authentication
- No indication of relevance
- Hearsay, incompetent and immaterial
- Failure to comply with procedural requirements for admission under 37 C.F.R. § 2.122(e)

4. All documents produced by Registrant Racemi during discovery (bearing "RAC"-prefix control numbers)

- Improper submission of documents obtained under production from adverse party – substantive defect which cannot be cured
- Lack of authentication

- No indication of relevance
- Hearsay, incompetent and immaterial
- Failure to comply with procedural requirements for admission under 37

C.F.R. § 2.122(e)

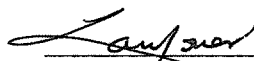
5. Registrant Racemi's Responses to Requests for Admission – **No objection**

6. Registrant Racemi's Responses to Interrogatories – **No objection**

Accordingly, Registrant Racemi respectfully requests that the Board enter an order striking from the record those documents referenced in Paragraphs 2(b), 3 and 4 above, namely:

- Strayer Deposition Exhibit No. 17;
- All documents produced by Petitioner Cloudpath Networks during discovery (those submitted documents bearing "CLD"-prefix control numbers); and
- All documents produced by Registrant Racemi during discovery (those submitted documents bearing "RAC"-prefix control numbers).

Respectfully submitted,



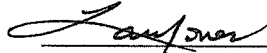
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Attorneys for Registrant,
 Racemi, Inc.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing “Registrant’s Motion to Strike Petitioner’s Notice of Reliance” was duly served on Petitioner via email as shown below on February 2, 2015, pursuant to an agreement between the parties to serve all such documents electronically:

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